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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the Matter of )  
 )  
Amendment of Section 73.202(b) )  
Table of Allotments, ) MB Docket No. 05-263  
FM Broadcast Stations ) RM-11269  
(Grants and Church Rock, New Mexico) )

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To: Office of the Secretary  
Attn: Assistant Chief, Audio Division  
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REPLY COMMENTS

Sierra H Broadcasting, Inc. ("Sierra H"), the licensee of Station KNRJ(FM), Payson, Arizona, by its attorneys and pursuant to Section 1.420 of the Commission's Rules, hereby submits these Reply Comments in response to the Counterproposal submitted by Smoke & Mirrors, LLC, College Creek Broadcasting, LLC and Desert Sky Media, LLC (the "Smoke & Mirrors Counterproposal") and the Counterproposal submitted by SanPete County Broadcasting Co., Marathon Media Group, LLC, College Creek Broadcasting, LLC and Sky Media, LLC ("SanPete Counterproposal") in the above-referenced rule making proceeding.<sup>1</sup> Both the Smoke & Mirrors Counterproposal and the SanPete Counterproposal are defective and should be dismissed. In support thereof, Sierra H states as follows.

<sup>1</sup> See *Grants and Church Rock, New Mexico*, DA 05-2339, rel. August 26, 2005 (the "NPRM"). Pursuant to the NPRM, the deadline for filing reply comments is November 1, 2005. These Reply Comments are therefore timely filed.

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Millennium Media, Inc. ("Millennium"), licensee of Station KYVA-FM, Channel 279C, Grants, New Mexico, filed the original Petition for Rule Making in this proceeding to reallocate Channel 279C to Church Rock, New Mexico and to modify KYVA-FM's license to specify Church Rock, New Mexico as its community of license. In response to the NPRM issued by the Media Bureau, Smoke & Mirrors et al submitted a Counterproposal proposing the following amendments to the FM Table of Allotments:

<u>Community</u>	<u>Existing Channel</u>	<u>Proposed Channel</u>
Ash Fork, AZ	267A	277A
Bagdad, AZ	269C3, 276C#	290A, 299A
Cottonwood, AZ	239C0	---
Desert Hills, AZ	---	276C0
First Mesa, AZ	247C	237C
Fredonia, AZ	278C1	247C1
Lake Havasu City, AZ	266C0	---
Meadview, AZ	---	300C
Paulden, AZ	263C3	228C3
Payson, AZ	266C1	240C1
Peach Springs, AZ	285C3	267C3
Quartzsite, AZ	27C3, 290C2	267C3, 251C2
Seligman, AZ	277C3	239C3
Spring Valley, AZ	---	266C
St. Johns, AZ	239C	251C
Teec Nos Pos, AZ	237C1	278C2
Essex, CA	255B, 280B	280B, 265B
Cal-Nev-Ari, NV	285A	---
Ely, NV	269C3	256C
Laughlin, NV	300C	285C2
Moapa Valley, NV	---	255C
Pioche, NV	255C	268C
Hurricane, UT	276C	260C
Kanab, UT	---	276C
St. George, UT	260C	---

SanPete et al also submitted a Counterproposal seeking the following changes to the FM Table of Allotments:

<u>Community</u>	<u>Existing Channel</u>	<u>Proposed Channel</u>
Amargosa Valley, AZ	266C1	276C
First Mesa, AZ	247C	237C
Fredonia, AZ	278C1	247C1
Tec Nos Pos, AZ	237C1	278C2
Indian Springs, NV	257C0	257C0, 266C
Castle Dale, UT	271C2	---
Cleveland, UT	---	269C2
Enoch, UT	---	264C
Hanksville, UT	---	262C1
Hurricane, UT	276C	260C
Kanab, UT	266C	276C
Monroe, UT	263C	271C
St. George, UT	260C	---

Both the Smoke & Mirrors and the SanPete Counterproposals are defective and should be dismissed, or, in the alternative, denied. At this time, in light of the short period between the submission of the Counterproposals and the due date for Reply Comments, Sierra H will limit its comments to a brief outline of its opposition to the Counterproposals. Should the Commission elect to issue a Public Notice soliciting comments on the defective Counterproposals, Sierra H will submit further comments as well.

First, both the Smoke & Mirrors Counterproposal and the SanPete Counterproposal propose allotments that would require exceedingly tall towers to place city-grade signals over the respective communities. *See* 47 C.F.R. 73.685. The Commission has previously dismissed counterproposals as technically deficient as a result of impermissible tower heights. *See Ammon and Dubois, Idaho*, DA 05-1628, released June 10, 2005.

Second, at least one proposed allotment in the Smoke & Mirrors Counterproposal is short-spaced to an existing allotment in violation of Commission policy. *See* 47. C.F.R. 73.207.

This short-spacing violation provides another basis for dismissal of the Smoke & Mirrors Counterproposal. *See Chester and Wedgefield, South Carolina*, 5 FCC Rcd 5572 (1990).

Finally, Smoke & Mirrors fails in its efforts to establish the community credentials of at least one proposed community in its Counterproposal, that of Meadview, Arizona. Smoke & Mirrors' Counterproposal must not be accepted if Smoke & Mirrors cannot establish that its proposed changes involve bona fide communities for allotment purposes.


These are just a few examples of the defective nature of the Counterproposals. They should provide sufficient grounds for the Commission to dismiss the Counterproposals at this stage, rather than require the parties and the Commission staff to identify the numerous other defects present in the Counterproposals. Under Commission policy, counterproposals must be technically correct when filed. *See, e.g., Broken Arrow and Bixby, Oklahoma, and Coffeyville, Kansas*, 3 FCC Rcd 6507, 6511 (MMB 1988); *Provincetown, Massachusetts, et al.*, 8 FCC Rcd 19 (MMB 1992). These Counterproposals are technically defective and must therefore be dismissed.

WHEREFORE, for the foregoing reasons, Sierra H Broadcasting, Inc. respectfully requests that the Commission dismiss the Smoke & Mirrors Counterproposal and the SanPete Counterproposal.

Respectfully submitted,

**SIERRA H BROADCASTING, INC.**

By: \_\_\_\_\_



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November 1, 2005

## CERTIFICATE OF SERVICE

I, Barry A. Friedman, do hereby certify that I have, on this 1<sup>st</sup> day of November, 2005, served a copy of the foregoing "Reply Comments" on the following parties, by first-class mail, postage prepaid:

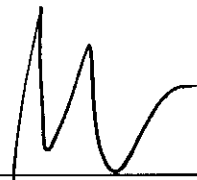
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